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14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA

17 IN RE TESLA, INC. SECURITIES
18 LITIGATION

Case No. 3:18-cv-04865-EMC

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**DEFENDANTS' RESPONSE TO
PLAINTIFF'S OPPOSITION TO
MOTION TO SUPPLEMENT THE
SUMMARY JUDGMENT RECORD**

Judge: Hon. Edward M. Chen

**DEFENDANTS' RESPONSE TO PLAINTIFF'S OPPOSITION RE: MOTION TO
SUPPLEMENT THE RECORD ON MOTION FOR PARTIAL SUMMARY JUDGMENT**

On April 1, 2022, Defendants filed a motion for leave to supplement the record on Plaintiff's motion for summary judgment. (Doc. No. 386). On April 5, 2022, Plaintiff filed an opposition (Doc. No. 388).

In the motion, Defendants did not present substantive argument about the evidence or the merits of Plaintiff's motion for partial summary judgment, in accordance with the Local Rules. However, in his opposition, Plaintiff argues at length regarding the substance of the supplemental evidence and how Mr. Littleton's testimony "matches" and is "consistent" with Plaintiff's position on summary judgment. (Doc. No. 388 at 1-3). Defendants strongly disagree. To the extent the Court believes it would be useful to have further briefing on Mr. Littleton's testimony and how it impacts Plaintiff's motion for summary judgment, Defendants request the right to file an additional brief.

As to Plaintiff’s assertions that Mr. Littleton’s testimony is “late” and that Defendants should have deposed him “months if not years earlier,” (Doc. No. 388 at 2), it should be noted that (a) prior to filing his motion for partial summary judgment on January 11, 2022, Plaintiff did not indicate his intention to file such a motion, nor did he engage in any meet and confer process beforehand; and (b) Plaintiff was fully aware at the time of filing his motion that Mr. Littleton’s deposition, as well as expert depositions, were going to take place in the following months.

DATED: April 6, 2022

Respectfully submitted,

QUINN EMANUEL URQUHART & SULLIVAN, LLP

By: /s/ *Alex Spiro*

Alex Spiro (*appearing pro hac vice*)

Attorneys for Tesla, Inc., Elon Musk, Brad W. Buss, Robyn Denholm, Ira Ehrenpreis, Antonio J. Gracias, James Murdoch, Kimbal Musk, And Linda Johnson Rice

1 **ATTESTATION**

2 I, Michael T. Lifrak, am the ECF user whose ID and password are being used to file the above
3 document. In compliance with Local Rule 5-1(h)(3), I hereby attest that Alex Spiro has concurred in
4 the filing of the above document.

5 */s/ Michael T. Lifrak*

6 Michael T. Lifrak

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